

106TH CONGRESS
1ST SESSION

H. R. 1399

To amend title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide States with the option to allow legal immigrant pregnant women, children, and blind or disabled medically needy individuals to be eligible for medical assistance under the Medicaid Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 14, 1999

Mr. LEVIN (for himself, Mr. MATSUI, Mr. CARDIN, Mrs. MINK of Hawaii, Ms. ROYBAL-ALLARD, Mr. GUTIERREZ, Mr. BECERRA, Mr. COYNE, Mrs. CLAYTON, Mr. MCGOVERN, Mr. DELAHUNT, Mr. BERMAN, Mr. McDERMOTT, Ms. MCKINNEY, Mr. FROST, Mr. TOWNS, Mr. RUSH, Mr. MENENDEZ, Mr. LaFALCE, Mr. KENNEDY of Rhode Island, Mr. DOOLEY of California, Ms. LEE, Ms. ROS-LEHTINEN, and Mr. DIAZ-BALART) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Commerce, Agriculture, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide States with the option to allow legal immigrant pregnant women, children, and blind or disabled medically needy individuals to be eligible for medical assistance under the Medicaid Program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fairness for Legal Im-
5 migrants Act of 1999”.

6 **SEC. 2. OPTIONAL ELIGIBILITY OF CERTAIN ALIEN PREG-**
7 **NANT WOMEN AND CHILDREN FOR MED-**
8 **ICAID.**

9 (a) IN GENERAL.—Subtitle A of title IV of the Per-
10 sonal Responsibility and Work Opportunity Reconciliation
11 Act of 1996 (8 U.S.C. 1611–1614) is amended by adding
12 at the end the following:

13 **“SEC. 405. OPTIONAL ELIGIBILITY OF CERTAIN ALIENS FOR**
14 **MEDICAID.**

15 “(a) OPTIONAL MEDICAID ELIGIBILITY FOR CER-
16 TAIN ALIENS.—A State may elect to waive (through an
17 amendment to its State plan under title XIX of the Social
18 Security Act) the application of sections 401(a), 402(b),
19 403, and 421 with respect to eligibility for medical assist-
20 ance under the program defined in section 402(b)(3)(C)
21 (relating to the Medicaid Program) of aliens who are law-
22 fully residing in the United States (including battered
23 aliens described in section 431(c)), within any or all (or
24 any combination) of the following categories of individuals:

1 “(1) PREGNANT WOMEN.—Women during preg-
2 nancy (and during the 60-day period beginning on
3 the last day of the pregnancy).

4 “(2) CHILDREN.—Children (as defined under
5 such plan), including optional targeted low-income
6 children described in section 1905(u)(2)(B).”.

7 (b) APPLICABILITY OF AFFIDAVITS OF SUPPORT.—
8 Section 213A(a) of the Immigration and Nationality Act
9 (8 U.S.C. 1183a(a)) is amended by adding at the end the
10 following:

11 “(4) INAPPLICABILITY TO BENEFITS PROVIDED
12 UNDER A STATE WAIVER.—For purposes of this sec-
13 tion, the term ‘means-tested public benefits’ does not
14 include benefits provided pursuant to a State elec-
15 tion and waiver described in section 405 of the Per-
16 sonal Responsibility and Work Opportunity Rec-
17 onciliation Act of 1996.”.

18 (c) CONFORMING AMENDMENTS.—

19 (1) Section 401(a) of the Personal Responsi-
20 bility and Work Opportunity Reconciliation Act of
21 1996 (8 U.S.C. 1611(a)) is amended by inserting
22 “and section 405” after “subsection (b)”.

23 (2) Section 402(b)(1) of the Personal Responsi-
24 bility and Work Opportunity Reconciliation Act of

1 1996 (8 U.S.C. 1612(b)(1)) is amended by inserting
2 “, section 405,” after “403”.

3 (3) Section 403(a) of such Act (8 U.S.C.
4 1613(a)) is amended by inserting “section 405 and”
5 after “provided in”.

6 (4) Section 421(a) of such Act (8 U.S.C.
7 1631(a)) is amended by inserting “except as pro-
8 vided in section 405,” after “Notwithstanding any
9 other provision of law,”.

10 (5) Section 1903(v)(1) of the Social Security
11 Act (42 U.S.C. 1396b(v)(1)) is amended by insert-
12 ing “and except as permitted under a waiver de-
13 scribed in section 405(a) of the Personal Responsi-
14 bility and Work Opportunity Reconciliation Act of
15 1996,” after “paragraph (2),”.

16 (d) RETROACTIVITY OF EFFECTIVE DATE.—The
17 amendments made by this section shall take effect as if
18 included in the enactment of title IV of the Personal Re-
19 sponsibility and Work Opportunity Reconciliation Act of
20 1996 (8 U.S.C. 1611 et seq.), except that the amendment
21 made by subsection (b) shall apply as if included in the
22 enactment of section 551(a) of the Illegal Immigration Re-
23 form and Immigrant Responsibility Act of 1996 (division
24 C of Public Law 104–208).

1 **SEC. 3. OPTIONAL ELIGIBILITY OF IMMIGRANT CHILDREN**
2 **FOR SCHIP.**

3 (a) IN GENERAL.—Section 405 of the Personal Re-
4 sponsibility and Work Opportunity Reconciliation Act of
5 1996, as added by section 2(a), is amended—

6 (1) in the heading, by inserting “**AND SCHIP**”
7 before the period; and

8 (2) by adding at the end the following new sub-
9 section:

10 “(b) OPTIONAL SCHIP ELIGIBILITY FOR CERTAIN
11 ALIENS.—

12 “(1) IN GENERAL.—Subject to paragraph (2), a
13 State may also elect to waive the application of sec-
14 tions 401(a), 402(b), 403, and 421 with respect to
15 eligibility of children for child health assistance
16 under the State child health plan of the State under
17 title XXI of the Social Security Act (42 U.S.C.
18 1397aa et seq.), but only with respect to children
19 who are lawfully residing in the United States (in-
20 cluding children who are battered aliens described in
21 section 431(c)).

22 “(2) REQUIREMENT FOR ELECTION.—A waiver
23 under this subsection may only be in effect for a pe-
24 riod in which the State has in effect an election
25 under subsection (a) with respect to the category of

1 individuals described in subsection (a)(2) (relating to
2 children).”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) applies to child health assistance for cov-
5 erage provided for periods beginning on or after October
6 1, 1997.

7 **SEC. 4. OPTIONAL ELIGIBILITY OF CERTAIN MEDICALLY**
8 **NEEDY ALIENS FOR MEDICAID.**

9 (a) OPTIONAL ELIGIBILITY OF CERTAIN ALIENS
10 WHO ARE BLIND OR DISABLED MEDICALLY NEEDY AD-
11 MITTED AFTER AUGUST 22, 1996.—

12 (1) IN GENERAL.—Section 405(a) of the Per-
13 sonal Responsibility and Work Opportunity Rec-
14 onciliation Act of 1996, as added by section 2(a), is
15 amended by adding at the end the following:

16 “(3) CERTAIN BLIND OR DISABLED MEDICALLY
17 NEEDY.—Individuals who are considered blind or
18 disabled under section 1614(a) of the Social Security
19 Act (42 U.S.C. 1382c(a)) and who, but for sections
20 401(a), 402(b) and 403 (except as waived under this
21 subsection), would be eligible for medical assistance
22 under clause (ii)(IV) of section 1902(a)(10)(A) of
23 the Social Security Act (42 U.S.C.
24 1396a(a)(10)(A)), or would be eligible for such as-
25 sistance under any other clause of that section of

1 that Act because the individual, if enrolled in the
2 program under title XVI of the Social Security Act,
3 would receive supplemental security income benefits
4 or a State supplementary payment under that
5 title.”.

6 (2) RETROACTIVITY OF EFFECTIVE DATE.—The
7 amendment made by paragraph (1) shall take effect
8 as if included in the enactment of title IV of the
9 Personal Responsibility and Work Opportunity Rec-
10 onciliation Act of 1996 (8 U.S.C. 1611 et seq.).

11 (b) OPTIONAL ELIGIBILITY OF MEDICALLY NEEDY
12 ALIENS REQUIRING A CERTAIN LEVEL OF CARE.—

13 (1) IN GENERAL.—Section 405 of the Personal
14 Responsibility and Work Opportunity Reconciliation
15 Act of 1996, as added by section 2(a) and as amend-
16 ed by section 3(a) and subsection (a), is further
17 amended by adding at the end the following new
18 subsection:

19 “(c) OPTIONAL ELIGIBILITY FOR MEDICALLY NEEDY
20 ALIENS REQUIRING A CERTAIN LEVEL OF CARE.—A
21 State may also elect to waive the application of sections
22 401(a), 402(b), and 421 with respect to eligibility for med-
23 ical assistance under the program defined in section
24 402(b)(3)(C) (relating to the Medicaid Program) of aliens
25 who—

1 “(1) were lawfully residing in the United States
2 on August 22, 1996; and

3 “(2) are residents of a nursing facility (as de-
4 fined in section 1919(a) of the Social Security Act
5 (42 U.S.C. 1396r(a)), or require the level of care
6 provided in a such a facility or in an intermediate
7 care facility, the cost of which could be reimbursed
8 under the State plan under title XIX of that Act.”.

9 (2) EFFECTIVE DATE.—The amendment made
10 by paragraph (1) shall take effect as if included in
11 the enactment of title IV of the Personal Responsi-
12 bility and Work Opportunity Reconciliation Act of
13 1996 (8 U.S.C. 1611 et seq.).

14 **SEC. 5. ELIGIBILITY OF CERTAIN ALIENS FOR SSI.**

15 (a) AGED ALIENS LAWFULLY RESIDING IN THE
16 UNITED STATES ON AUGUST 22, 1996.—Section
17 402(a)(2) of the Personal Responsibility and Work Oppor-
18 tunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2))
19 is amended by adding at the end the following:

20 “(L) SSI EXCEPTION FOR AGED ALIENS
21 LAWFULLY RESIDING IN THE UNITED STATES
22 ON AUGUST 22, 1996.—With respect to eligibility
23 for the program defined in paragraph (3)(A),
24 paragraph (1) shall not apply to any individual

1 who was lawfully residing in the United States
2 on August 22, 1996, and has attained age 65.”.

3 (b) BLIND OR DISABLED QUALIFIED ALIENS WHO
4 ENTERED THE UNITED STATES AFTER AUGUST 22,
5 1996.—

6 (1) IN GENERAL.—Section 402(a)(2) of the
7 Personal Responsibility and Work Opportunity Rec-
8 onciliation Act of 1996 (8 U.S.C. 1612(a)(2)), as
9 amended by subsection (a), is amended by adding at
10 the end the following:

11 “(M) SSI EXCEPTION FOR BLIND OR DIS-
12 ABLED QUALIFIED ALIENS WHO ENTERED THE
13 UNITED STATES AFTER AUGUST 22, 1996.—With
14 respect to eligibility for the program defined in
15 paragraph (3)(A), paragraph (1) and section
16 421 shall not apply to any individual who en-
17 tered the United States on or after August 22,
18 1996 with a status within the meaning of the
19 term ‘qualified alien’, and became blind or dis-
20 abled (within the meaning of section 1614(a) of
21 the Social Security Act (42 U.S.C. 1382c(a)))
22 after the date of such entry.”.

23 (2) EXCEPTION FROM 5-YEAR BAN.—Section
24 403(b) of the Personal Responsibility and Work Op-
25 portunity Reconciliation Act of 1996 (8 U.S.C.

1 1613(b)) is amended by adding at the end the fol-
2 lowing:

3 “(3) CERTAIN BLIND OR DISABLED ALIENS.—
4 An alien described in section 402(a)(2)(M), but only
5 with respect to the programs specified in subsections
6 (a)(3)(A) and (b)(3)(C) of section 402 (and, with re-
7 spect to such programs, section 421 shall not apply
8 to such an alien).”.

9 (3) CONFORMING AMENDMENT.—Section
10 421(a) of the Personal Responsibility and Work Op-
11 portunity Reconciliation Act of 1996 (8 U.S.C.
12 1631(a)), as amended by section 2(c)(4), is amended
13 by inserting “, section 402(a)(2)(M), and section
14 403(b)(3)” after section “405”.

15 (4) ENFORCEMENT OF AFFIDAVITS OF SUP-
16 PORT.—For provisions relating to the enforcement
17 of affidavits of support in cases of individuals made
18 eligible for benefits under the amendment made by
19 paragraph (1), see section 213A of the Immigration
20 and Nationality Act (8 U.S.C. 1183a).

21 (c) EFFECTIVE DATE.—The amendments made by
22 subsections (a) and (b) are effective with respect to bene-
23 fits payable for months after the month in which this Act
24 is enacted, but only on the basis of applications filed on
25 or after the date of enactment of this Act.

1 **SEC. 6. ELIGIBILITY OF LEGAL IMMIGRANTS FOR FOOD**
2 **STAMPS.**

3 (a) IN GENERAL.—Section 402(a)(2) of the Personal
4 Responsibility and Work Opportunity Reconciliation Act
5 of 1996 (8 U.S.C. 1612(a)(2)), as amended by section
6 5(b)(1), is amended by adding at the end the following:

7 “(N) FOOD STAMP EXCEPTION FOR
8 ALIENS LAWFULLY RESIDING IN THE UNITED
9 STATES ON AUGUST 22, 1996.—With respect to
10 eligibility for benefits for the specified Federal
11 program described in paragraph (3)(B), para-
12 graph (1) shall not apply to an individual who
13 was lawfully residing in the United States on
14 August 22, 1996.”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 subsection (a) applies to benefits under the food stamp
17 program, as defined in section 3(h) of the Food Stamp
18 Act of 1977 (7 U.S.C. 2012(h)) for months beginning at
19 least 30 days after the date of enactment of this Act.

20 **SEC. 7. ELIGIBILITY OF LEGAL IMMIGRANTS SUFFERING**
21 **FROM DOMESTIC ABUSE.**

22 (a) EXEMPTION FROM SSI AND FOOD STAMPS
23 BAN.—Section 402(a)(2) of the Personal Responsibility
24 and Work Opportunity Reconciliation Act of 1996 (8
25 U.S.C. 1612(a)(2)), as amended by section 6(a), is amend-
26 ed by adding at the end the following:

1 “(O) BATTERED IMMIGRANTS.—With re-
 2 spect to eligibility for benefits for a specified
 3 Federal program (as defined in paragraph (3)),
 4 paragraph (1) shall not apply to any individual
 5 described in section 431(c).”.

6 (b) EXEMPTION FROM 5-YEAR BAN.—Section 403(b)
 7 of the Personal Responsibility and Work Opportunity Rec-
 8 onciliation Act of 1996 (8 U.S.C. 1613(b)), as amended
 9 by section 5(b)(2), is amended by adding at the end the
 10 following:

11 “(4) BATTERED IMMIGRANTS.—An alien de-
 12 scribed in section 431(c).”.

13 (c) EXPANSION OF DEFINITION OF BATTERED IMMI-
 14 GRANTS.—

15 (1) IN GENERAL.—Section 431(c) of the Per-
 16 sonal Responsibility and Work Opportunity Rec-
 17 onciliation Act of 1996 (8 U.S.C. 1641(c)) is
 18 amended—

19 (A) in paragraphs (1)(A), (2)(A), and
 20 (3)(A) by inserting “ or the benefits to be pro-
 21 vided would alleviate the harm from such bat-
 22 tery or cruelty or would enable the alien to
 23 avoid such battery or cruelty in the future” be-
 24 fore the semicolon; and

1 (B) in the matter following paragraph (3),
2 by inserting “ and for determining whether the
3 benefits to be provided under a specific Federal,
4 State, or local program would alleviate the
5 harm from such battery or extreme cruelty or
6 would enable the alien to avoid such battery or
7 extreme cruelty in the future” before the pe-
8 riod.

9 (2) CONFORMING AMENDMENT REGARDING
10 SPONSOR DEEMING.—Section 421(f)(1) of the Per-
11 sonal Responsibility and Work Opportunity Rec-
12 onciliation Act of 1996 (8 U.S.C. 1631(f)(1)) is
13 amended—

14 (A) in subparagraph (A), by inserting “or
15 would alleviate the harm from such battery or
16 cruelty, or would enable the alien to avoid such
17 battery or cruelty in the future” before the
18 semicolon; and

19 (B) in subparagraph (B), by inserting “or
20 would alleviate the harm from such battery or
21 cruelty, or would enable the alien to avoid such
22 battery or cruelty in the future” before the pe-
23 riod.

24 (d) CONFORMING DEFINITION OF “FAMILY” USED
25 IN LAWS GRANTING FEDERAL PUBLIC BENEFIT ACCESS

1 FOR BATTERED IMMIGRANTS TO STATE FAMILY LAW.—
2 Section 431(c) of the Personal Responsibility and Work
3 Opportunity Reconciliation Act of 1996 (8 U.S.C.
4 1641(c)) is amended—

5 (1) in paragraph (1)(A), by striking “by a
6 spouse or a parent, or by a member of the spouse
7 or parent’s family residing in the same household as
8 the alien and the spouse or parent consented to, or
9 acquiesced in, such battery or cruelty,” and insert-
10 ing “by a spouse, parent, son, or daughter, or by
11 any individual having a relationship with the alien
12 covered by the civil or criminal domestic violence
13 statutes of the State or Indian country where the
14 alien resides, or the State or Indian country in
15 which the alien, the alien’s child, or the alien child’s
16 parents received a protection order, or by any indi-
17 vidual against whom the alien could obtain a protec-
18 tion order,”; and

19 (2) in paragraph (2)(A), by striking “by a
20 spouse or parent of the alien (without the active par-
21 ticipation of the alien in the battery or cruelty), or
22 by a member of the spouse or parent’s family resid-
23 ing in the same household as the alien and the
24 spouse or parent consented or acquiesced to such
25 battery or cruelty,” and inserting “by a spouse, par-

1 ent, son, or daughter of the alien (without the active
2 participation of alien in the battery or cruelty) or by
3 any individual having a relationship with the alien
4 covered by the civil or criminal domestic violence
5 statutes of the State or Indian county where the
6 alien resides, or the State or Indian country in
7 which the alien, the alien's child, or the alien child's
8 parent received a protection order, or by any indi-
9 vidual against whom the alien could obtain a protec-
10 tion order,".

11 (e) EFFECTIVE DATE.—The amendments made by
12 this section apply to Federal means-tested public benefits
13 provided on or after the date of enactment of this Act.

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